IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

: O R D E R :

S.B. Criminal Revision Petition . No.330/2007.
(Ganesh Kumar Vs. State of Rajasthan & Another)

DATE OF ORDER : May 01, 2007

P R E S E N T

Hon'ble Mr. Justice Gopal Krishan Vyas

Mr. Trilok Joshi for petitioner.
Mr. Ashok Upadhyay, P.P. for the State .

BY THE COURT :

Heard learned counsel for the petitioner.

Issue notice. Learned Public Prosecutor Shri Upadhyay accepts notice.

At the outset, counsel for the petitioner invited attention of the Court towards orders dated February 02, 2006 passed by this Court in S.B. Criminal Misc. Petition No.127/2005, Brij Lal Vs. State of Rajasthan and dated March 07, 2006 passed in S.B. Criminal Misc. Petition No.271/2006, Nihal Singh Vs. State of Rajasthan and submitted that in the facts and circumstances of the case, similar directions may be issued in the present matter also.

In Brij Lal Vs. State of Rajasthan, this Court carefully considered the question in the light of the decision of the Supreme Court in the case of State of Karnataka Vs. K. Krishnan, reported in 2000 Cr.L.R. (SC) 657

and found difference in circumstances to lead to the conclusion that the condition of furnishing bank guarantee is onerous and the same may be substituted by the condition of executing personal bond and furnishing solvent security to the satisfaction of the Court. In the said case, it was vehemently urged on behalf of the petitioner that in the State of Rajasthanforest produce is markedly different on account of eco-geological and other governing features and, therefore, the faggot wood collected in the agricultural fields for kitchen fire should not be misnomered for forest produce. It was also considered that in Rajasthan identical shrubs and trees grow in the agricultural fields also as in forests and which is main source of kitchen fire in rural Rajasthan. Having considered the matter on its various aspects, there appeared certain degree of difference between the provisions of the Karnataka Forest Act and Rajasthan Forest Act, therefore, appreciation of the facts and circumstances of the case in respect of application of the provisions of the Rajasthan Forest Act need also be made in different perspective.

Counsel for the State opposed the petition. However, he does not deny the fact that the present case is covered by the order of this Court passed in the case of Brij Lal Vs. State of Rajasthan.

Consequently, the impugned condition of furnishing bank guarantee of Rs.1,00,000/- is set aside and the impugned order dated 26.02.2007 passed by the Addl. Chief Judl. Magistrate, . Sriganganagar in FIR Case No.49/2007, P.S. Sadar Sriganganagar is modified to the extent that instead of furnishing the bank guarantee if the petitioner executes a personal bond in the sum of Rs.1,00,000/- and furnishes one

solvent security in the like amount to the satisfaction of the trial Court, the vehicle in question (tractor with trolley) may be given on supardginama to the petitioner on the conditions stipulated in the impugned order.

The petition stands disposed of with the aforesaid modification in the impugned order dated 26.02.2007.

(Gopal Krishan Vyas) J.

Ojha, a.